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FTAA - COMMITTEE OF GOVERNMENT REPRESENTATIVES
ON THE PARTICIPATION OF CIVIL SOCIETY

COVER SHEET

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Organization (s) (if applicable)	The Canadian Foundation for the Americas (FOCAL) is an independent, non-governmental organization dedicated to deepening and strengthening Canada's relations with countries in Latin America and the Caribbean through policy discussion and analysis.
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ISSUES ADDRESSED (Check all that apply)

Agriculture		Subsidies, Antidumping and Countervailing Duties	
Competition Policy		Civil Society	X
Dispute Settlement		Electronic Commerce	
Government Procurement		Smaller Economies	X
Intellectual Property Rights		The FTAA Process	X
Investment		Other: Environment	X
Market Access			
Services			

Executive Summary

The present submission by FOCAL concentrates on two themes: the first being the procedures of the Committee of Government Representatives on the Participation of Civil Society, and the specific civil society concerns about the environmental impact of the FTAA; and the second being on the issue of smaller economies. Recommendations are provided in each case.

Civil Society

- An expanded effort is required on the part of governments to publicize the mechanism by which civil society may provide input to the FTAA process. In particular, each government should undertake to place an advertisement, at least of one-quarter page in size, in the 3 largest circulation newspapers in the country.
- The Committee should extend the deadline for submissions in this, the second, exercise to the end of December 2000 at a minimum and to the end of February 2001 at most. The current deadline established by the Committee is a full seven (7) months before the expected Ministerial Meeting in Buenos Aires. An extension to the end of February 2001 would still provide the Committee with some 6 weeks, at a minimum, time in which to complete its work prior to the 2001 Trade Ministerial.
- The Committee should agree at its seventh meeting to allow an opportunity for Civil Society to directly address the Committee for at least a portion of the time allocated for the eighth meeting. This would address one of the concerns of civil society, which is that the “mailbox” mechanism does not provide any avenue for substantive feedback with respect to the submissions made.
- Members of the Committee, and particularly the sitting Chair, need to make further efforts to participate in a range of FTAA-related forums, such as academic and civil society workshops, seminars and conferences. The Committee remains very much a faceless entity, even to those civil society elements that are attempting to follow the FTAA process closely.
- The Committee has an obligation, at a minimum in keeping with the spirit in which it was created by Ministers, to be on the forefront of transparency. Even its own procedures fail this obligation badly. At a minimum, the Committee should issue a detailed press communiqué after each and every meeting. The Committee should also issue a complete list of participants for each meeting that would necessarily include telephone, postal and electronic points of contact.
- The Committee should commit to recommending to Ministers that it be empowered and indeed encouraged to engage in more active outreach activities. Such activities would include, but not be limited to, the holding of open public sessions and the provision of substantive replies to submissions made constructively.
- Finally, the Committee should amend the procedures regarding submissions so as to allow submitters to indicate their agreement for the making public of specific submissions. If so agreed by the submitting party, the submission should be posted electronically on the section of the Official FTAA Home Page that is dedicated to the work of the Committee. Should a submitter not wish to make their views known to the public then they would retain that privilege. If such a system were currently in place then FOCAL would be agreeable to making the current submission available to the public.

The Environment and the FTAA

- The FTAA should include a strong statement in the objectives that the States will undertake all activities under the agreement in a manner consistent with environmental protection and conservation.
- The FTAA should include a commitment not to lower environmental standards to attract investment.
- The FTAA should include a commitment that trade measures embodied in multilateral environmental agreements take precedence over trade provisions in the FTAA.
- The FTAA should include language that preserves the right of States to establish levels of environmental protection that they deem appropriate. This should include provisions stating that a country challenging an environmental measure should bear the burden of proving the measure is inconsistent with the agreement.
- A mechanism should be created to develop a parallel agreement, linked to the FTAA, which fosters the improvement of national environmental management, including, at a minimum, that effective environmental laws are in place, and that they are effectively enforced.

Smaller Economies

- Guidance is necessary from Ministers and the Trade Negotiations Committee (TNC) that would set out the basic principles by which the issue of smaller economies would be approached by the various negotiating groups. As matters stand, each negotiating group has the issue inscribed on its agenda, but without the guidance that would be provided by a set of agreed principles. Guiding principles have been arrived at for the FTAA negotiations as a whole (i.e., single undertaking, comprehensive, WTO plus, WTO compatible etc.) yet the smaller economies remain without a similar set of guideposts.
- On an urgent basis, the TNC should take on the responsibility of arriving at a concrete definition of what constitutes a smaller economy in the FTAA context. The lack of progress in the crafting of rules is hampered by the absence of an operational definition of to whom such rules would in fact apply. It might be a consequence of the principles suggested in the first recommendation that the operational definition of smaller economies might very well differ from one negotiating group to another. In other words, smaller economies – and the presumed differential treatment that would consequently be accorded – might very well require a lesser degree of special attention in some negotiating groups (i.e., competition policy) than in others (i.e., market access).
- Smaller economies frequently encounter difficulties in complying with transparency or information notification requirements during the negotiations themselves. This is evident from the gaps that exist, for example, in the Hemispheric Trade and Tariff Data Base. While responsibility for the provision of such information will ultimately rest with national governments, individual Negotiating Group Chairs should be charged by the TNC with the responsibility for assisting to a) define the problems; b) suggest solutions; and, c) provide written recommendations to the TNC on such matters.
- Enhanced technical assistance from the Tripartite Committee, in particular, would also be of benefit to the smaller economies in their efforts to meet their transparency and notification obligations. It should be recalled that enhanced capability in this area would also provide benefits in terms of the compliance record of smaller economies with multilateral obligations as well.